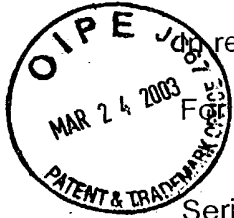


## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Invention Application of : R. Dennis Nesbitt  
 : **MULTI-CORE, MULTI-LAYER COVER GOLF BALL**  
 Serial No. : 09/877,835  
 Filed : June 8, 2001  
 Art Unit No. : 3711  
 Examiner : A. Hunter  
 Date of Last Action : November 27, 2002  
 Customer No. : 24492  
 Confirmation No. : 2483  
 Attorney Docket No. : P-5686U1-C1-1  
 (SLDZ 200214-3)

RECEIVED

MAR 25 2003

OFFICE OF PETITIONS

Cleveland, Ohio 44114-2518  
 January 15, 2003

**PETITION FOR APPLICATION FILING DATE**

Assistant Commissioner for Patents  
 Washington, D.C. 20231

Dear Sir:

This is a Petition that the above-captioned application be accorded a filing date of June 8, 2001. A check in the amount of \$130 is enclosed for the petition fee. Please charge any fee deficiencies or credit any over payment to Deposit Account No. 06-0308.

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence and related papers are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on 1/16/03.

By: Mary Ann Temesvari  
 Mary Ann Temesvari

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The present application comprising 59 pages of specification, 4 pages of claims (20 total with 3 independent claims), 1 page of abstract, and 3 sheets of drawings was filed by Express Mail with the U.S. Patent and Trademark Office on June 8, 2001. An unsigned Declaration was included with the filing of this application.

In response to that filing, on June 26, 2001, a Notice to File Missing Parts of Nonprovisional Application (copy attached as Exhibit A) was mailed by the PTO to Applicant. That Notice indicated a filing date of June 8, 2001.

An executed Declaration and Response to Missing Parts Notice was filed by Applicant on August 2, 2001.

Prosecution ensued.

Suddenly and nearly a year and a half after the filing of the application, on November 27, 2002, the PTO mailed a withdrawal of Previously Sent Notice (Exhibit B) and included a "Corrected Notice." This corrected Notice (Exhibit C) stated that a "filing date has NOT been accorded to the...application." Allegedly, according to the PTO, the application that was filed on June 8, 2001, did not contain any drawings. And, pursuant to 35 U.S.C. § 113, a drawing is required "where necessary for the understanding" of the claimed invention.<sup>1</sup>

Applicant and its attorneys have reviewed this matter and believe that the application originally filed June 8, 2001 included three (3) sheets of drawings and for some unknown reason, the PTO's present records are in error. Accordingly, the Notices from the PTO on November 27, 2002 (Exhibits B and C) are in error. Furthermore, it is respectfully urged that the previously recognized filing date for this application of June 8, 2001 be recognized.

Specifically, Applicant's attorneys, who filed this application, reviewed their file. Contained in that file was a postcard submitted concurrently with the Express Mailing of this application on June 8, 2001 that indicated that the application included three (3) sheets of drawings. A copy of that postcard is attached as Exhibit D.

Additional evidence that the original application filed on June 8, 2001

<sup>1</sup> The paper entitled "Withdrawal of Previously Sent Notice" (Exhibit B) also asserted that a Notice mailed on October 4, 2002 was sent. Applicant, nor its attorneys, never received any Notice in this regard on or about that date.

contained three (3) sheets of drawings is found from the stamped postcard received by and returned to Applicant's attorneys by the PTO. That postcard containing the PTO date receipt stamp, lists the application filed on June 8, 2001 as containing the drawings at issue. A copy of that stamped postcard is attached as Exhibit E.

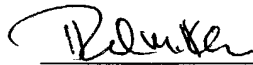
An Affidavit as to the application and its filing is included herewith as Exhibit F. In that Affidavit, the attorney signing the application transmittal papers on June 8, 2001, recalls that, to the best of his knowledge, the application filed on June 8, 2001 contained the three (3) pages of drawings referenced on the corresponding postcard.

It would be significantly damaging and inequitable to deny the June 8, 2001 filing date to Applicant. In addition to the foregoing noted evidence, all supporting the previously recognized June 8, 2001 filing date, the specification of the originally filed application repeatedly refers to Figs. 1-5 on the three (3) sheets of drawings at issue. That is, these drawing sheets were clearly in existence at the time of filing the present application and are in no way an attempt to add "new matter."

Accordingly, Applicant and its attorneys respectfully request the PTO to acknowledge that the application filed on June 8, 2001 included the three (3) sheets of drawings at issue. Upon such acknowledgement, there should be no further issue and the June 8, 2001 filing date should be recognized.

Respectfully submitted,

FAY, SHARPE, FAGAN,  
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